



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,280	11/03/2003	Andrew R. Vasquez	253.01-P-USA	4502

30040 7590 08/04/2005

MICHAEL A. SHIPPEY, PH. D.
4848 LAKEVIEW AVENUE
SUITE B
YORBA LINDA, CA 92886

EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

Office Action Summary	Application No. 10/700,280	Applicant(s) VASQUEZ, ANDREW R.	
	Examiner Fenn C. Mathew	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment containing a pair of threaded channels penetrating the ball from the surface thereon must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the base claim recites a plurality of threaded channels penetrating the ball, and claim 8 further adds the limitation that at least one of the threaded channels penetrates the entire ball from one side to the other. The specification does not contain support for an additional channel in addition to a single channel penetrating the entire ball from one side to the other.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9-10 and 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 9-10 and 19-20 provides for the use of the support ball of claim 1 as attached to a bicycle or on a trampoline, but, since the claim does not set forth any steps involved in the method/process, it is unclear what

method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 9-10 and 19-20 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Fussell, Jr. (U.S. 3,823,610). Fussell teaches as broadly claimed, a support ball comprising a substantially spherical shaped ball made of impact resistant material, with a plurality of channels (18, 20) penetrating the ball from the surface thereon, the channels being threaded so as to be capable of mating with a bolt or machine screw, or similar threaded fastener. With respect to claim 2, Fussell teaches the pair of threaded channels positioned so that each threaded channel is arranged on the opposite side of

the ball from the other threaded channel, with both channels in alignment with each other. With respect to claim 4, as broadly interpreted, Fussell teaches a plurality of 'sculpted' areas (3, 9) arranged on opposite sides of the ball in line with one another. With respect to claim 5, Fussell teaches the opposably arranged sculpted areas surround a threaded channel. With respect to claim 6, Fussell teaches that the ball is substantially hollow. With respect to claim 7, as best understood Fussell teaches a device wherein the openings are capable of aligning with the openings of a bicycle fork, and wherein the threaded openings may receive male threaded fasteners.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosso et al. (U.S. 5,590,890). Referring to claim 11, Rosso teaches a substantially spherical shaped ball made of impact resistant material, with a threaded bolts fixedly attached to the ball and emanating outward from the surface thereon, with the ends of the bolts extending outward from the surface thereon and located on opposite sides of the ball. Rosso fails to teach a plurality of bolts, but rather teaches a single bolt. The feature of having two separate bolts extending from opposing sides as opposed to a single bolt having ends extending from opposing sides is considered an obvious

Art Unit: 3764

modification as it has been held that constructing a formerly integral structure in various elements only involves routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Referring to claim 12, Rosso teaches the use of plastic in construction of wheels. The specific material utilized is considered a matter of ordinary design choice within the knowledge of the skilled artisan, as the skilled artisan is apt to select a material based on the suitability for intended use. With respect to claim 13, likewise, the grade/size of the bolts is also considered a matter of ordinary design choice as the skilled artisan could select from a variety of different grades/sizes absent unexpected or undesired results. Referring to claim 14, as broadly interpreted, Rosso teaches the ball having a plurality of sculpted areas (24, 26). Referring to claim 15, Rosso teaches the sculpted areas arranged on opposite sides of the ball. Referring to claim 16, Rosso teaches the opposably arranged sculpted areas surrounding the bolt having threaded ends. Referring to claim 17, Rosso teaches the spherical ball being substantially hollow. Referring to claim 18, Rosso teaches the bolts arranged so that they may align with the openings of a fork, and inserted therethrough, and attached to a fork by means of female threaded fasteners.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fussel, Jr.. The specific material utilized is considered a matter of ordinary design choice within the knowledge of the skilled artisan, as the skilled artisan is apt to select a material based on the suitability for intended use and in the instant case numerous materials may be used including polyethylene, absent unexpected or undesired results.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

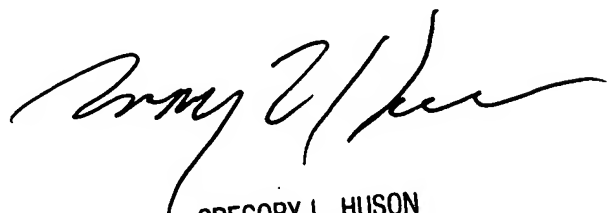
Zinanti	U.S. 6,508,335
Brelvi	U.S. 6,065,762
McCloskey	U.S. 4,251,122
Mueller	U.S. 3,827,369
Iiyoshi	U.S. 3,757,383

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fcm



GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700